

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN BAKER, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

PALMCO ADMINISTRATION, LLC d/b/a
INDRA ENERGY, a New York limited liability
company, PALMCO POWER PA, LLC d/b/a
INDRA ENERGY, a Pennsylvania limited
liability company, and PALMCO ENERGY PA,
LLC d/b/a INDRA ENERGY, a Pennsylvania
limited liability company, PALMCO ENERGY
MA, LLC d/b/a INDRA ENERGY,
Massachusetts limited liability company,
PALMCO POWER MA, LLC d/b/a INDRA
ENERGY, a Massachusetts limited liability
company,

Defendants.

CIVIL ACTION NO. 1:20-cv-10284-DPW

**MOTION FOR LEAVE TO FILE REPLY BRIEF AND TO STRIKE PLAINTIFF'S
OPPOSITION TO DEFENDANTS' MOTION TO DISMISS INASMUCH AS IT
CONTAINS CONFIDENTIAL SETTLEMENT COMMUNICATIONS**

In accordance with L.R. D. Mass. 7.1(b)(3), Defendants PALMCO ADMINISTRATION, LLC, PALMCO POWER PA, LLC and PALMCO ENERGY PA, LLC (collectively "out-of-state Defendants") request leave of court to file the attached reply memorandum in response to Plaintiff's opposition to Defendants' motion to dismiss. In response to Defendants' motion to dismiss, Plaintiff, for the first time, advances a legal theory of alter ego and associated factual contentions not contained in the Amended Complaint. Because these allegations are not fairly inferable from Plaintiff's Amended Complaint, they constitute an unanticipated argument concerning both fact and law to which Defendants seek leave to reply.

Further, in support of his opposition, Plaintiff apparently attaches as an exhibit thereto and by reference therein confidential settlement communications between his counsel and

counsel for Defendants. In addition to seeking leave to reply, Defendants also move to strike the exhibits to the Opposition or, in the alternative, that the Opposition be put under seal to protect the confidence of such communications.

A copy of Defendants' proposed reply is attached hereto as **Exhibit A**.

WHEREFORE, Defendants respectfully request that the Court grant them leave to file the attached Reply Memorandum.

Respectfully submitted,

PALMCO ADMINISTRATION, LLC,
PALMCO POWER PA, LLC and PALMCO
ENERGY PA, LLC

By: Their Attorneys

/s/ Steven E. DiCairano

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Dated: August 3, 2020

CERTIFICATE OF SERVICE

I, Steven E. DiCairano, hereby certify that the documents filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Steven E. DiCairano

Steven E. DiCairano